

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Manuel Seavaun Young, #228856 (CCDC),)		
fka Manuel Seacaun Young, # Y-241942,)		C/A No. 9:11-0840-MBS
)	
Petitioner,)		
)	
vs.)		ORDER
)	
United States of America,)		
)	
Respondent.)		
_____)		

Petitioner Manuel Seavaun Young was convicted by a jury on March 8, 2011 of federal charges for possession with intent to distribute cocaine base and possession of a firearm by a felon. Petitioner currently is detained pending sentencing at the Charleston County Detention Center in Charleston, South Carolina. On April 8, 2011, Petitioner, proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, asserting the following grounds for relief: (1) “evidence was tamper[] with and misplaced”; (2) “I was never in possession of [the firearm]”; (3) “because of the weapon and control substance, I was indicted by the government”; (4) “Officer Burke’s affidavit/supplemental incident report/testimony contained false statements”; (5) ineffective assistance of counsel; (6) racial profiling. Petition for Writ of Habeas Corpus 8-10 (ECF No. 1) (errors in original).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. The Magistrate Judge reviewed the petition pursuant to the provisions of the Anti-Terrorism and Effective Death Penalty Act of 1996 and other precedents. On April 15, 2011, the Magistrate Judge filed a Report and Recommendation in which he recommended that the petition be summarily dismissed because the

claims raised are not proper grounds for relief under § 2241. In addition, the Magistrate Judge determined that the claims raised are premature because Petitioner has not yet been sentenced. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Petitioner’s § 2241 petition is dismissed without prejudice and without requiring Respondent to file an answer or return.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

May 17, 2011

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.